



L. JOYCE HAMPERS
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

February 25, 1980

You request a ruling regarding the basis of Massachusetts real property which was acquired by the above-named taxpayer prior to 1971, and was sold in 1979 and reported as an installment sale in 1979 and thereafter. You ask whether the basis rules in effect for 1979 will apply to installments reported in 1980 and in subsequent years.

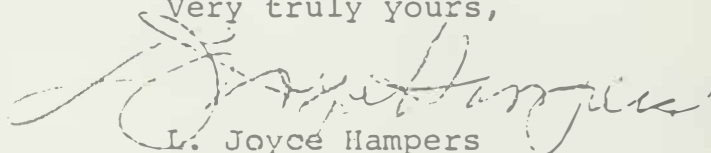
Under Massachusetts General Laws Chapter 62, Section 7, (as amended and in effect in 1979), the basis of real property is its initial basis as of December 31, 1970, adjusted for depreciation thereafter. If the transaction is reported on an installment sale basis, Massachusetts gross income is determined by increasing the federal gross income by the excess of the federal adjusted basis of the property disposed of in the transaction over the Massachusetts adjusted basis, and by decreasing the federal gross income by the excess of the Massachusetts adjusted basis of the property over the federal adjusted basis. (Chapter 62, Section 63.) Only the portion of each payment that constitutes profit, that is, that proportion of the installment payments actually received in that year which the total profit bears to the total contract price, is included in gross income (Internal Revenue Code Section 453(a)).

Each installment is deemed income for the year in which it is received and is governed by the tax rate in effect for that year.

Section 1202 of the Internal Revenue Code allows a capital gains deduction of 60% of the amount of the taxpayer's net capital gain. Section 2 of Chapter 409 of the Acts of 1979, which is effective as of January 1, 1980, allows Massachusetts taxpayers the deduction provided by Section 1202. Section 2 is modified by Section 5 of Chapter 409 which limits the capital gains deduction to 20% of the net capital gains in 1980 and to 40% of the net capital gains in 1981. The full 60% deduction is effective for 1982 and subsequent years.

Based on the foregoing it is ruled that the Massachusetts tax basis of Massachusetts real property which was held prior to 1971 and sold in an installment transaction in 1979 is its initial basis as of December 31, 1970, adjusted for depreciation thereafter. This basis will also apply to installments reported in 1980 and in subsequent years.

Very truly yours,



L. Joyce Hampers
Commissioner of Revenue

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